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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement*/ submitted by the International Indian Treaty Council, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2000]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

The IITC is deeply concerned about the continued violations of human rights and fundamental freedoms committed against Indigenous Peoples throughout the world. The IITC has received these specific cases of documented abuses Indigenous Peoples to bring to the attention of this session of the Commission.

In Colombia, the U' wa Peoples are struggling to protect their communities, culture, environment and traditional territories from destruction by oil exploitation activities. In Colombia, and throughout Latin America, oil exploitation has forced Indigenous Peoples from their traditional territories and violated their rights to life, health, culture and a healthy environment by contaminating the water and air with toxic pollutants and opening previously pristine areas to deforestation and other forms of resource extraction. In Colombia, oil exploitation is accompanied by increased political violence, with Indigenous Peoples caught in the crossfire.

The Colombian government' s recent approval of a license permitting Occidental Petroleum to drill in Iowa traditional territory was the result of a process that made a mockery of international norms and Colombian laws requiring full consultation with Indigenous Peoples before approving projects that jeopardize their lives or culture. The final approval of the first well at a site known as Gibraltar 1 was made without any real consultation with the U' wa, despite the fact that the well is within their ancestral territory and less than a kilometer from the border of their reservation.

In November 1999, the U' wa purchased the land encompassing the well site. Since that time, several hundred U' wa have lived in an encampment at the site, exercising their right to occupy territory that belongs to them and peacefully protesting the planned drilling. In January of this year, at least 500 and possibly thousands of Colombian soldiers and police moved in, encircling the U' wa. The soldiers threatened to poison the U' wa' s water and prevent them from obtaining food if they did not leave the well site. On January 25, the military forcibly removed the remaining U' wa in helicopters, hitting and kicking a number of them in the process, according to eyewitness accounts.

In Guatemala, on February 22, 1999, the report of the Historical Clarification Commission (Commission del Esclarecimiento Historico -CEH-) was publicly released as a part of the Peace Process. The IITC is concerned with the administration of CEH and the lack of effective response by the Guatemalan government to date.

Defensoria Maya, an NGO affiliate of IITC in Guatemala, writes:

" The contents of CEH report are realistic. The impact of the report has been major, demonstrating a large part of what occurred in Guatemala during a phase of history. We are also deeply satisfied that the massacres were reported as a crime of genocide, in addition to targeting those who have committed these abhorrent acts against our peoples. The report entitled ' Memories from the Silence' makes it known that the Mayan People were those most affected by the racism, discrimination, and the extermination policies of the Guatemalan government and army.

" All of Guatemala society, but primarily the Mayan People, have been challenged to follow-up on the recommendations made by the CEH. What has made it all the more difficult, is that the government which recently left office has ignored not only the official recommendations of the CEH, but also the recommendations proposed in 1999 by the National Commission of the Mayan People for the Historical Redemption and Recovery of the Memory of our history.

" During the year 2000, Mayan organizations and our own authorities need to strengthen and consolidate the body formed by Civilian Society to follow-up on the CEH recommendations. At the same time we need to expand and consolidate the National Mayan Commission to work on recommendations made by our Mayan organizations. Those recommendations were submitted to the various governmental administrations and to the CEH at the appropriate time. "

During this 56th session of the Commission the IITC calls upon the newly elected Government of Guatemala installed on January 14, 2000 to make a firm commitment before the world community to initiate a process to implement the recommendations of the Historical Clarification Commission as well as the National Commission of the Mayan People. This is a fundamental prerequisite to beginning the process of addressing and rectifying the profound and pervasive marginalization, discrimination and human rights abuses which the Indigenous Peoples of Guatemala have endured.

In Mexico, the IITC is concerned about the increased militarization in the country as well as violations perpetrated against Indigenous communities. The myriad of violations of fundamental human rights committed in the states of Chiapas, Nayarit, Oaxaca, Campeche, Yucatan, Guerrero, and in Mexico City continues to increase. The Mexican military has cordoned off potions of the Lacondona region of Chiapas, increasing the isolation of many Indigenous communities. The lives of Indigenous women, children and elders are endangered by the military presence, which has prevented both humanitarian aid and human rights observers from reaching them with assistance.

In Chile, the government has broken the Agreement to Respect Citizens' Rights signed on August 5, 1999. On August 22, Chilean police and military forces violently occupied over an VIIIth Region community, Pablo Quintriqueo Huenuman, detaining 34 Mapuche people in an official meeting. On August 19 six people from Choin Lafquenche of Collipulli were detained and beaten. Over 400 people in the region were forcibly removed from their lands and imprisoned between January and August. This figure compares with the worst years of repression under the Pinochet regime. These military police actions often occur without official authorization at the request of forestry companies.

The Ralco project, for example, which proposes flooding of 3,400 hectares of land bordering the upper BioBio river, is being developed by national energy giant Endesa, majority-owned by electricity-sector holding firm Enersis. Last year Endesa-Spain

acquired a high number of shares in Enersis, owner of Endesa-Chile. The Spanish company now has decision power over the construction of the Ralco Dam. Endesa-Chile has been authorized to continue construction of the Ralco Dam by the government's Electricity and Energy Authority.

The Puenche Indigenous Peoples have refused to accept relocation packages offered by the energy firm. In order to stop construction of the dam, Puenche elder Nicolasa Quintreman will begin legal actions against Endesa Spain, filing a legal summons for the ethnocide against the Puenche Peoples before the Spanish Court (Audience). Spanish penal law prohibits carrying out acts that contribute to the destruction of other peoples. Spanish penal law, in Article 607, prohibits forcible removal and subjecting Indigenous Peoples to conditions that put their lives or health in danger.

Forestry companies have used intimidation tactics against the Mapuche Peoples to discourage their demands for the return of their ancestral lands, including attempts to criminalize Mapuche leaders through false allegations by paid witnesses.

Endesa-Chile has committed a series of anti-ethical and illegal actions in order to facilitate the resettlement of the Puenche communities. Several international commissions and tribunals have condemned and posed serious questions to the way that Endesa Chile has been conducting the construction of the Ralco Dam over the BioBio including the International Finance Corporation (IFC) of the World Bank, (Hair, July 1997), and the Human Rights Committee of the American Anthropological Association (March 1998).

In Brazil, in the state of Bahia, the government increased the contingent of military police in the region where the Pataxo Indigenous Peoples had been able to recover nine farms that trespassers had invaded in the Caramuru Catarina Paraguacu Indigenous area in Pau Brasil in the south of Bahia. On November 16, 1999, the Military broke into houses and threatened Indigenous peoples, killed their farm animals, beat and constraining community members including women. The Pataxo and the Pataxo Ha-ha-hae, around 1,200 people, including children, were isolated at the Milagrosa Farm. Violence in the area is escalating, perpetrated by gunmen contracted by farmers. Meanwhile, farmers have rejected a settlement agreement that would return Indian lands. The Action to Nullify the Property Titles for the Indigenous Peoples' lands appropriated illegally moves forward painfully slowly, and has been in process for over 17 years in the Federal Justice system.

In light of such ongoing abuses and threats to Indigenous Peoples around the world, the IITC calls on members of this Commission to support the recommendation submitted to it in resolution 1999/20 by the Sub-Commission on the Promotion and Protection of Human Rights, calling for the appointment of a Special Rapporteur on Indigenous Peoples' issues to monitor, investigate and report on critical situations threatening the human rights, fundamental freedoms and survival of Indigenous Peoples.

Finally, IITC calls upon the state governments where these situations are occurring to report to the Commission regarding the latest developments and the steps they have taken to remedy these critical human rights violations.